



# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

|                         |   |                       |
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| ಸಂಪುಟ ೧೫೩<br>Volume 153 | ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜುಲೈ ೨೬, ೨೦೧೮ (ಶ್ರಾವಣ ೪, ಶಕ ವರ್ಷ ೧೯೪೦)<br>Bengaluru, Thursday, July 26, 2018 (Shravana 4, Shaka Varsha 1940) | ಸಂಚಿಕೆ ೩೦<br>Issue 30 |
|-------------------------|---|-----------------------|

## ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು,  
ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ  
ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು  
ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ  
ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಳ ೦೫ ಕೇಶಾಪ್ರ ೨೦೧೮, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೦-೦೬-೨೦೧೮.

ದಿನಾಂಕ: ೨೧-೦೪-೨೦೧೮ ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (೧) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Criminal Law (Amendment) Ordinance, 2018 (No. 2 of 2018) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

### MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, the 21st April, 2018/Vaisakha 1, 1940 (Saka)*

THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 2018

No. 2 OF 2018

Promulgated by the President in the Sixty-ninth Year of the Republic of India.

An Ordinance further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Ordinance may be called the Criminal Law (Amendment) Ordinance, 2018.

Short title and commencement.

(೩೬೭)

(2) It shall come into force at once.

## CHAPTER II

### AMENDMENTS TO THE INDIAN PENAL CODE

|                                 |   |             |
|---------------------------------|---|-------------|
| Amendment of section 166A.      | 2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters "section 376B, section 376C, section 376D," the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;   | 45 of 1860. |
| Amendment of section 228A.      | 3. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.   |             |
| Amendment of section 376.       | 4. In section 376 of the Penal Code,—<br><br>(a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;<br><br>(b) in sub-section (2), clause (i) shall be omitted;<br><br>(c) after sub-section (2), the following sub-section shall be inserted, namely:—<br><br>“(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:<br><br>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:<br><br>Provided further that any fine imposed under this sub-section shall be paid to the victim.”. |             |
| Insertion of new section 376AB. | 5. After section 376A of the Penal Code, the following section shall be inserted, namely:—  | 45 of 1860. |

“376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with fine or with death:

Punishment for rape on woman under twelve years of age.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.”.

6. After section 376D of the Penal Code, the following sections shall be inserted , namely:—

Insertion of new sections 376 DA and 376 DB.

“376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with fine:

Punishment for gang rape on woman under sixteen years of age.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, and with fine or with death:

Punishment for gang rape on woman under twelve years of age.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.”.

### CHAPTER III AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

Amendment  
to section 53.

7. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

1 of 1872.

Amendment to  
section 146.

8. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, letters and figures “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

### CHAPTER IV AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

Amendment of  
section 26.

9. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

2 of 1974.

Amendment of  
section 154.

10. In section 154 of the Code of Criminal Procedure, in sub-section (1),—

(i) in the first proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D,”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,” shall be substituted;

(ii) in the second proviso, in clause (a), for the words, figures and letters “section 376A, section 376B, section 376C, section 376D,”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,” shall be substituted.



11. In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D," the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

Amendment of section 161.

12. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D," the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

Amendment of section 164.

13. In section 173 of the Code of Criminal Procedure,—

Amendment of section 173.

(i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code shall be completed within two months" shall be substituted;

(ii) in sub-section (2), in clause (i), in sub-clause (h), for the figures, letters and word "376A, 376B, 376C, section 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

14. In section 197 of the Code of Criminal Procedure, in sub-section (1), in the *Explanation*, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 197.

15. In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall" shall be substituted.

Amendment to section 309.

16. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section

Amendment to section 327.

376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

Amendment to section 357B.

**17.** In section 357B of the Code of Criminal Procedure, for the words, figures and letters “under section 326A or section 376D of the Indian Penal Code”, the words, figures and letters “under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code” shall be substituted.

45 of 1860.

Amendment to section 357C.

**18.** In section 357C of the Code of Criminal Procedure, for the figures and letters “376A, 376B, 376C, 376D”, the figures and letters “376A, 376AB, 376B, 376C, 376D, 376DA, 376DB” shall be substituted.

Amendment of section 374.

**19.** In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.”.

Amendment of section 377.

**20.** In section 377 of the Code of Criminal Procedure, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.”.

Amendment of section 438.

**21.** In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA and section 376DB of the Indian Penal Code.”.

Amendment of section 439.

**22.** In section 439 of the Code of Criminal Procedure,—

(a) in sub-section (1), after the first proviso, the following

proviso shall be inserted, namely:—

45 of 1860.

“Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

45 of 1860.

“(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376A or section 376DA or section 376DB of the Indian Penal Code.”.

23. In the First Schedule to the Code of Criminal Procedure, under the heading “I.-OFFENCES UNDER THE INDIAN PENAL CODE”,—

Amendment of First Schedule.

(a) against section 376,—

(i) for the entry under column 3, the following entries shall be substituted, namely:—

| 1 | 2 | 3  | 4 | 5 | 6 |
|---|---|--|---|---|---|
|   |   | “Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine”; |   |   |   |

(ii) the following entries shall be inserted at the end, namely:—

| 1 | 2  | 3  | 4          | 5            | 6                   |
|---|--|--|------------|--------------|---------------------|
|   | “Persons committing offence of rape on a | Rigorous imprisonment for a term which shall | Cognizable | Non-bailable | Court of Session.”; |

|  |                                   |   |  |  |  |
|--|-----------------------------------|---|--|--|--|
|  | woman under sixteen years of age. | not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine. |  |  |  |
|--|-----------------------------------|---|--|--|--|

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

| 1      | 2  | 3  | 4          | 5            | 6                   |
|--------|--|--|------------|--------------|---------------------|
| "376AB | Person committing an offence of rape on a woman under twelve years of age. | Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death. | Cognizable | Non-bailable | Court of Session."; |

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

| 1      | 2  | 3   | 4          | 5            | 6                 |
|--------|--|---|------------|--------------|-------------------|
| "376DA | Gang rape on a woman under sixteen years of age. | Rigorous imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine. | Cognizable | Non-bailable | Court of Session. |



| 1     | 2   | 3  | 4          | 5            | 6                   |
|-------|---|--|------------|--------------|---------------------|
| 376DB | Gang rape on woman under twelve years of age. | Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death. | Cognizable | Non-bailable | Court of Session.”. |

## CHAPTER V

AMENDMENT TO THE PROTECTION OF CHILDREN  
FROM SEXUAL OFFENCES ACT, 2012

24. In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters “376A, 376C, 376D”, the figures and letters “376A, 376AB, 376B, 376C, 376D, 376DA, 376DB” shall be substituted.

Amendment of section 42 of Act No.32 of 2012.

RAM NATH KOVIND,  
*President.*

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*

P.R. 24  
SC - 20

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಶ್ರೀನಿವಾಸ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಖ್ಯೆ ೦೬ ಕೇಶಾಪ್ರ ೨೦೧೮, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೦-೦೬-೨೦೧೮.

ದಿನಾಂಕ: ೨೧-೦೪-೨೦೧೮ ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (೧) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ  
The Fugitive Economic Offenders Ordinance, 2018 (No. 1 of 2018) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು  
ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

*New Delhi, the 21st April, 2018/Vaisakha 1, 1940 (Saka)*

**THE FUGITIVE ECONOMIC OFFENDERS ORDINANCE, 2018**

No. 1 OF 2018

Promulgated by the President in the Sixty-ninth Year of the  
Republic of India.

An Ordinance to provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto.

WHEREAS the Fugitive Economic Offenders Bill, 2018 was introduced on the 12th day of March, 2018 in the House of the People;

AND WHEREAS the said Bill could not be taken up for consideration and passing in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

**CHAPTER I**

**PRELIMINARY**

1. (1) This Ordinance may be called the Fugitive Economic Offenders Ordinance, 2018.

Short title,  
extent and  
commencement.

Definitions.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) “Administrator” means an Administrator appointed under sub-section (1) of section 15;

(b) “benami property” and “benami transaction” shall have the same meanings as assigned to them under clauses (8) and (9) respectively of section 2 of the Prohibition of Benami Property Transactions Act, 1988;

45 of 1988.

(c) “contracting State” means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(d) “Deputy Director” means the Deputy Director appointed under sub-section (1) of section 49 of the Prevention of Money-laundering Act, 2002;

15 of 2003.

(e) “Director” means the Director appointed under sub-section (1) of section 49 of the Prevention of Money-laundering Act, 2002;

15 of 2003.

(f) “fugitive economic offender” means any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who—

(i) has left India so as to avoid criminal prosecution; or

(ii) being abroad, refuses to return to India to face criminal prosecution;

(g) “key managerial personnel” shall have the same meaning as assigned to it in clause (51) of section 2 of the Companies Act, 2013;

18 of 2013.

(h) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(i) “person” includes—

(i) an individual;

(ii) a Hindu Undivided Family;

(iii) a company;

(iv) a trust;

(v) a partnership;

(vi) a limited liability partnership;

(vii) an association of persons or a body of individuals, whether incorporated or not;

(viii) every artificial juridical person not falling within any of the preceding sub-clauses; and

(ix) any agency, office or branch owned or controlled by any of the above persons mentioned in the preceding sub-clauses;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a Scheduled Offence, or the value of any such property, or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;

(l) “Schedule” means the Schedule appended to this Act;

(m) “Scheduled Offence” means an offence specified in the Schedule, if the total value involved in such offence or offences is one hundred crore rupees or more;

15 of 2003. (n) “Special Court” means a Court of Session designated as a Special Court under sub-section (1) of section 43 of the Prevention of Money-laundering Act, 2002.

15 of 2003. (2) The words and expressions used and not defined in this Ordinance but defined in the Prevention of Money-laundering Act, 2002 shall have the meanings respectively assigned to them in that Act.

3. The provisions of this Ordinance shall apply to any individual who is, or becomes, a fugitive economic offender on or after the date of coming into force of this Ordinance.

Application of Ordinance.

## CHAPTER II

### DECLARATION OF FUGITIVE ECONOMIC OFFENDERS AND CONFISCATION OF PROPERTY

4. (1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that any individual is a fugitive economic offender, he may file an application in such form and manner as may be prescribed in the Special Court that such individual may be declared as a fugitive economic offender.

Application for declaration of fugitive economic offender and procedure therefor.

(2) The application referred to in sub-section (1) shall contain—

- (a) reasons for the belief that an individual is a fugitive economic offender;
- (b) any information available as to the whereabouts of the fugitive economic offender;
- (c) a list of properties or the value of such properties believed to be the proceeds of crime, including any such property outside India for which confiscation is sought;
- (d) a list of properties or benami property owned by the individual in India or abroad for which confiscation is sought; and
- (e) a list of persons who may have an interest in any of the properties listed under clauses (c) and (d).

15 of 2003. (3) The Authorities appointed for the purposes of the Prevention of Money-laundering Act, 2002 shall be the Authorities for the purposes of this Ordinance.

5. (1) The Director or any other officer authorised by the Director, not below the rank of Deputy Director, may, with the permission of the Special Court, attach any property mentioned in the application under section 4 by an order in writing in such manner as may be prescribed.

Attachment of property.

(2) Notwithstanding anything contained in sub-section (1) or section 4 the Director or any other officer, not below the rank of Deputy Director, authorised by the Director, may, by an order in writing, at any time prior to the filing of the application under section 4, attach any property—

- (a) for which there is a reason to believe that the property is proceeds of crime, or is a property owned by an individual who is a fugitive economic offender; and
- (b) which is being or is likely to be dealt with in a manner which may result in the property being unavailable for confiscation:

Provided that the Director or any other officer who provisionally attaches any property under this sub-section shall, within a period of thirty days from the date of such attachment, file an application under section 4 before the Special Court.

(3) The attachment of any property under this section shall continue for a period of one hundred and eighty days from the date of order of attachment or such other period as may be extended by the Special Court before the expiry of such period.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) from such enjoyment.



*Explanation.*— For the purposes of this sub-section, the expression “person interested”, in relation to any immovable property includes all persons claiming or entitled to claim any interest in the property.

Powers of  
Director and  
other officers.

6. The Director or any other officer shall, for the purposes of section 4, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a reporting entity and examining him on oath;
- (c) compelling the production of records;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

Power of  
survey.

7. (1) Notwithstanding anything contained in any other provisions of this Ordinance, where a Director or any other officer authorised by the Director, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing), that an individual may be a fugitive economic offender, he may enter any place—

- (i) within the limits of the area assigned to him; or
- (ii) in respect of which he is authorised for the purposes of this section, by such other authority, who is assigned the area within which such place is situated.

(2) Where the Director or any other officer authorised by him, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing) that an individual may be a fugitive economic offender and it is necessary to enter any place as mentioned in sub-section (1), he may request any proprietor, employee or any other person who may be present at that time, to—

- (a) afford him the necessary facility to inspect such records as he may require and which may be available at such place;
- (b) afford him the necessary facility to check or verify the proceeds of crime or any transaction related to proceeds of crime which may be found therein; and
- (c) furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Ordinance.

(3) The Director, or any other officer acting under this section may—

- (i) place marks of identification on the records inspected by him and make or cause to be made extracts or copies therefrom;
- (ii) make an inventory of any property checked or verified by him; and
- (iii) record the statement of any person present at the property which may be useful for, or relevant to, any proceeding under this Ordinance.

Search and  
seizure.

8. (1) Notwithstanding anything contained in any other law for the time being in force, where the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person—

- (i) may be declared as a fugitive economic offender;
- (ii) is in possession of any proceeds of crime;
- (iii) is in possession of any records which may relate to proceeds of crime; or

(iv) is in possession of any property related to proceeds of crime, then, subject to any rules made in this behalf, he may authorise any officer subordinate to him to—

(a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such records or proceeds of crime are kept;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not available;

(c) seize any record or property found as a result of such search;

(d) place marks of identification on such record or property, if required or make or cause to be made extracts or copies therefrom;

(e) make a note or an inventory of such record or property; and

(f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant for the purposes of any investigation under this Ordinance.

(2) Where an authority, upon information obtained during survey under section 7, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence.

9. Notwithstanding anything contained in any other law for the time being in force—

Search of persons.

(a) if an authority, authorised in this behalf by the Central Government by general or special order, has reason to believe (the reason for such belief to be recorded in writing) that any person has secreted about his person or anything under his possession, ownership or control, any record or proceeds of crime which may be useful for or relevant to any proceedings under this Ordinance, he may search that person and seize such record or property which may be useful for or relevant to any proceedings under this Ordinance;

(b) where an authority is about to search any person, he shall, if such person so requires, take such person within twenty-four hours to the nearest Gazetted Officer, superior in rank to him, or a Magistrate:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey undertaken to take such person to the nearest Gazetted Officer, superior in rank to him, or the Magistrate's Court;

(c) if the requisition under clause (b) is made, the authority shall not detain the person for more than twenty-four hours prior to taking him before the Gazetted Officer, superior in rank to him, or the Magistrate referred to in that sub-section:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of detention to the office of the Gazetted Officer, superior in rank to him, or the Magistrate's Court;

(d) the Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge such person but otherwise shall direct that search be made;

(e) before making the search under clause (a) or clause (d), the authority shall call upon two or more persons to attend and witness the search and the search shall be made in the presence of such persons;

(f) the authority shall prepare a list of record or property seized in the course of the search and obtain the signatures of the witnesses on the list;

(g) no female shall be searched by anyone except a female; and

(h) the authority shall record the statement of the person searched under clause (a) or clause (e) in respect of the records or proceeds of crime found or seized in the course of the search.

Notice.

**10.** (1) Where an application under section 4 has been duly filed, the Special Court shall issue a notice to an individual who is alleged to be a fugitive economic offender.

(2) The notice referred to in sub-section (1), shall also be issued to any other person who has any interest in the property mentioned in the application under sub-section (2) of section 4.

(3) A notice under sub-section (1) shall—

(a) require the individual to appear at a specified place and time not less than six weeks from the date of issue of such notice; and

(b) state that failure to appear on the specified place and time shall result in a declaration of the individual as a fugitive economic offender and confiscation of property under this Ordinance.

(4) A notice under sub-section (1) shall be forwarded to such authority, as the Central Government may notify, for effecting service in a contracting State.

(5) The authority referred to in sub-section (4) shall make efforts to serve the notice within a period of two weeks in such manner as may be prescribed.

(6) A notice under sub-section (1) may also be served to the individual alleged to be a fugitive economic offender by electronic means to—

(a) his electronic mail address submitted in connection with an application for allotment of Permanent Account Number under section 139A of the Income-tax Act, 1961;

43 of 1961.

(b) his electronic mail address submitted in connection with an application for enrolment under section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

18 of 2016.

(c) any other electronic account as may be prescribed, belonging to the individual which is accessed by him over the internet, subject to the satisfaction of the Special Court that such account has been recently accessed by the individual and constitutes a reasonable method for communication of the notice to the individual.

Procedure for hearing application.

**11.** (1) Where any individual to whom notice has been issued under sub-section (1) of section 10 appears in person at the place and time specified in the notice, the Special Court may terminate the proceedings under this Ordinance.

(2) Where any individual to whom notice has been issued under sub-section (1) of section 10 fails to appear at the place and time specified in the notice, but enters appearance through counsel, the Special Court may in its discretion give a period of one week to file a reply to the application under section 4.

(3) Where any individual to whom notice has been issued under sub-section (1) of section 10 fails to enter appearance either in person or through counsel, and the Special Court is satisfied—

(a) that service of notice has been effected on such party; or

(b) that notice could not be served in spite of best efforts because such individual has evaded service of notice,

it may, after recording reasons in writing, proceed to hear the application.

(4) The Special Court may also give any person to whom notice has been issued under sub-section (2) of section 10 a period of one week to file a reply to the application under section 4.

**12.** (1) After hearing the application under section 4, if the Special Court is satisfied that an individual is a fugitive economic offender, it may, by an order, declare the individual as a fugitive economic offender for reasons to be recorded in writing.

Declaration of fugitive economic offender.

(2) On a declaration under sub-section (1), the Special Court may order that any of the following properties stand confiscated to the Central Government—

(a) the proceeds of crime in India or abroad, whether or not such property is owned by the fugitive economic offender; and

(b) any other property or benami property in India or abroad, owned by the fugitive economic offender.

(3) The confiscation order of the Special Court shall, to the extent possible, identify the properties in India or abroad that constitute proceeds of crime which are to be confiscated and in case such properties cannot be identified, quantify the value of the proceeds of crime.

(4) The confiscation order of the Special Court shall separately list any other property owned by the fugitive economic offender in India which is to be confiscated.

(5) Where the Special Court has made an order for confiscation of any property under sub-section (2), and such property is in a contracting State, the Special Court may issue a letter of request to a Court or authority in the contracting State for execution of such order.

(6) Every letter of request to be transmitted to a contracting State under sub-section (5) shall be transmitted in such form and manner as the Central Government may, by notification, specify in this behalf.

(7) The Special Court may, while making the confiscation order, exempt from confiscation any property which is a proceed of crime in which any other person, other than the fugitive economic offender, has an interest if it is satisfied that such interest was acquired *bonafide* and without knowledge of the fact that the property was proceeds of crime.

(8) All the rights and title in the confiscated property shall, from the date of the confiscation order, vest in the Central Government, free from all encumbrances.

(9) Where on the conclusion of the proceedings, the Special Court finds that the individual is not a fugitive economic offender, the Special Court shall order release of property or record attached or seized under this Ordinance to the person entitled to receive it.

(10) Where an order releasing the property has been made by the Special Court under sub-section (9), the Director or any other officer authorised by him in this behalf may withhold the release of any such property or record for a period of ninety days from the date of receipt of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Ordinance.

**13.** (1) Where at any time after the institution of the application under section 4, any other property is discovered or identified which constitutes proceeds of crime or is property owned by the fugitive economic offender liable to be confiscated under this Ordinance, the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, may file a supplementary application in the Special Court seeking confiscation of such properties.

Supplementary Application.

(2) The provisions of sections 4 to 12 shall, as far as may be, apply in relation to such application as they apply in relation to an application under section 4.

**14.** Notwithstanding anything contained in any other law for the time being in force,—

(a) on a declaration of an individual as a fugitive economic offender, any Court or tribunal in India, in any civil proceeding before it, may, disallow such individual from putting forward or defending any civil claim; and

Power to disallow civil claims.



(b) any Court or tribunal in India in any civil proceeding before it, may, disallow any company or limited liability partnership from putting forward or defending any civil claim, if an individual filing the claim on behalf of the company or the limited liability partnership, or any promoter or key managerial personnel or majority shareholder of the company or an individual having a controlling interest in the limited liability partnership has been declared as a fugitive economic offender.

*Explanation.*—For the purposes of this section, the expressions—

(a) “company” means anybody corporate and includes a firm, or other association of persons; and

(b) “limited liability partnership” shall have the same meaning as assigned to it in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008.

6 of 2009.

Management of properties confiscated under this Ordinance.

**15. (1)** The Central Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of a Joint Secretary to the Government of India) as it thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (2) of section 12 in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is vested in the Central Government under section 12:

Provided that the Central Government or the Administrator shall not dispose of any property for a period of ninety days from the date of the order under sub-section (2) of section 12.

### CHAPTER III

#### MISCELLANEOUS

Rules of evidence.

**16. (1)** The burden of proof for establishing—

(a) that an individual is a fugitive economic offender; or

(b) that a property is the proceeds of crime or any other property in which the individual alleged to be a fugitive economic offender has an interest,

shall be on the Director or the person authorised by the Director to file the application under section 4.

(2) Notwithstanding anything contained in any other law for the time being in force, where any person referred to in sub-section (2) of section 10 claims that any interest in any property was acquired *bonafide* and without knowledge of the fact that, such property constitutes proceeds of crime, the burden of proving such fact shall lie upon him.

(3) The standard of proof applicable to the determination of facts by the Special Court under this Ordinance shall be preponderance of probabilities.

Appeal.

**17. (1)** An appeal shall lie from any judgment or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of the period of ninety days.

- 18.** No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Special Court is empowered by or under this Ordinance to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance. Bar of jurisdiction.
- 19.** No suit, prosecution or other legal proceeding shall lie against the Central Government or Presiding Officer of the Special Court or Director or Deputy Director or any other officer authorised by the Director for anything which is in good faith done or intended to be done under this Ordinance or any rule made thereunder. Protection of action taken in good faith.
- 20.** (1) The Central Government may, having regard to the objects of this Ordinance, and if it considers necessary or expedient so to do, by notification add to, or as the case may be, omit from the First Schedule any offences specified therein. Power of Central Government to amend Schedule.
- (2) Every such notification shall, as soon as after it is issued, be laid before each House of Parliament.
- 21.** The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Overriding effect.
- 22.** The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force. Application of other laws not barred.
- 23.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance. Power to make rules.
- (2) In particular, and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- (a) the form and manner of filing application under sub-section (1) of section 4;
  - (b) the manner of attachment of property under sub-section (1) of section 5;
  - (c) other matters under clause (f) of section 6;
  - (d) the procedure for conducting search and seizure under section 8;
  - (e) the manner in which the notice shall be served under sub-section (5) of section 10;
  - (f) any other electronic account under clause (c) of sub-section (6) of section 10;
  - (g) the manner and conditions subject to which the Administrator shall receive and manage the property confiscated under sub-section (2) of section 15; and
  - (h) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules.
- 24.** Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. Laying of rules before Parliament.
- 25.** (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty: Power to remove difficulties.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## THE SCHEDULE

[See section 2(l) and (m)]

| Section   | Description of offence  |
|---|---|
| <b>I. Offences under the Indian Penal Code (45 of 1860)</b> |   |
| 120B read with any offence in this Schedule                 | Punishment of criminal conspiracy.  |
| 255   | Counterfeiting Government stamp.  |
| 257   | Making or selling instrument for counterfeiting Government stamp.   |
| 258   | Sale of counterfeit Government stamp.   |
| 259   | Having possession of counterfeit Government stamp.  |
| 260   | Using as genuine a Government stamp known to be counterfeit.  |
| 417   | Punishment for cheating.  |
| 418   | Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.   |
| 420   | Cheating and dishonestly inducing delivery of property.   |
| 421   | Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.   |
| 422   | Dishonestly or fraudulently preventing debt being available for creditors.  |
| 423   | Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.  |
| 424   | Dishonest or fraudulent removal or concealment of property.   |
| 467   | Forgery of valuable security, will, etc.  |
| 471   | Using as genuine a forged [document or electronic record].  |
| 472   | Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.  |
| 473   | Making or possessing counterfeit seal, etc., intent to commit forgery punishable otherwise.   |
| 475   | Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.                  |
| 476   | Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material. |
| 481   | Using a false property mark.  |
| 482   | Punishment for using a false property mark.   |
| 483   | Counterfeiting a property mark used by another.   |
| 484   | Counterfeiting a mark used by a public servant.   |
| 485   | Making or possession of any instrument for counterfeiting a property mark.  |
| 486   | Selling goods marked with a counterfeit property mark.  |

| Section  | Description of offence   |
|--|--|
| 487  | Making a false mark upon any receptacle containing goods.  |
| 488  | Punishment for making use of any such false mark.  |
| 489A   | Counterfeiting currency notes or bank notes.   |
| 489B   | Using as genuine, forged or counterfeit currency notes or bank notes.  |
| <b>II. Offence under the Negotiable Instruments Act, 1881 (26 of 1881)</b>                       |  |
| 138  | Dishonour of cheque for insufficiency, etc., of funds in the account.  |
| <b>III. Offence under the Reserve Bank of India Act, 1934 (2 of 1934)</b>                        |  |
| 58B  | Penalties.   |
| <b>IV. Offences under the Central Excise Act, 1944 (1 of 1944)</b>                               |  |
| Section 9  | Offences and Penalties.  |
| <b>V. Offences under the Customs Act, 1962 (52 of 1962)</b>                                      |  |
| 135  | Evasion of duty or prohibitions.   |
| <b>VI. Offences under the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988)</b> |  |
| 3  | Prohibition of benami transactions.  |
| <b>VII. Offences under the Prevention of Corruption Act, 1988 (49 of 1988)</b>                   |  |
| 7  | Public servant taking gratification other than legal remuneration in respect of an official act.   |
| 8  | Taking gratification in order, by corrupt or illegal means, to influence public servant.   |
| 9  | Taking gratification for exercise of personal influence with public servant.   |
| 10   | Punishment for abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.                             |
| 13   | Criminal misconduct by a public servant.   |
| <b>VIII. Offences under the Securities and Exchange Board of India Act, 1992 (15 of 1992)</b>    |  |
| 12A read with section 24   | Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.                                       |
| 24   | Offences for contravention of the provisions of the Act.   |
| <b>IX. Offences under the Prevention of Money Laundering Act, 2002 (15 of 2003)</b>              |  |
| 3  | Offence of money-laundering.   |
| 4  | Punishment for money-laundering.   |
| <b>X. Offences under the Limited Liability Partnership Act, 2008 (6 of 2009)</b>                 |  |
| Sub-section (2) of section 30  | Carrying on business with intent or purpose to defraud creditors of the Limited Liability Partnership or any other person or for any other fraudulent purpose. |



| Section  | Description of offence  |
|--|---|
| <b>XI. Offences under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010)</b>   |   |
| 34   | Penalty for article or currency or security obtained in contravention of Section 10.  |
| 35   | Punishment for contravention of any provision of the Act.   |
| <b>XII. Offences under the Companies Act, 2013 (18 of 2013)</b>  |   |
| Sub-section (4) of section 42 of the Companies Act, 2013 read with section 24 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) | Offer or invitation for subscription of securities on private placement.  |
| 74   | Repayment of deposits, etc., accepted before commencement of the Companies Act, 2013.   |
| 76A  | Punishment for contravention of section 73 or section 76 of the Companies Act, 2013.  |
| Second proviso to sub-section (4) of section 206   | Carrying on business of a company for a fraudulent or unlawful purpose.   |
| Clause (b) of section 213  | Conducting the business of a company with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose. |
| 447  | Punishment for fraud.   |
| 452  | Punishment for wrongful withholding of property.  |
| <b>XIII. Offences under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015)</b>                   |   |
| 51   | Punishment for wilful attempt to evade tax.   |
| <b>XIV. Offences under the Insolvency and Bankruptcy Code, 2016 (31 of 2016)</b>   |   |
| 69   | Punishment for transactions defrauding creditors.   |
| <b>XV. Offences under the Central Goods and Services Tax Act, 2017 (12 of 2017)</b>  |   |
| Sub-section (5) of section 132   | Punishment for certain offences.  |

RAMNATH KOVIND,  
*President.*

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಞ ೦೭ ಕೇಶಾಪ್ರ ೨೦೧೮, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೦-೦೬-೨೦೧೮.

ದಿನಾಂಕ: ೦೩-೦೫-೨೦೧೮ ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II section 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, (No.3 of 2018) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 3rd May, 2018/Vaisakha 13, 1940 (Saka)

### THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS (AMENDMENT) ORDINANCE, 2018

No 3 OF 2018

Promulgated by the President in the Sixty-ninth Year of  
the Republic of India.

An Ordinance to amend the Commercial Courts, Commercial  
Division and Commercial Appellate Division of High  
Courts Act, 2015.

WHEREAS Parliament is not in session and the President is  
satisfied that circumstances exist which render it necessary for  
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by  
clause (1) of article 123 of the Constitution, the President is  
pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018.

Short title and  
commencement.

(2) Save as otherwise provided, it shall come into force at  
once.

- Amendment of long title. of 2. In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words “Commercial Courts”, the words “, Commercial Appellate Courts” shall be inserted. 4 of 2016.
- Amendment of section 1. of 3. In section 1 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—  
“(1) This Act may be called the Commercial Courts Act, 2015.”.
- Amendment of section 2. of 4. In section 2 of the principal Act, in sub-section (1),—  
(I) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—  
“(a) “Commercial Appellate Courts” means the Commercial Appellate Courts designated under section 3A;”;  
(II) in clause (i), for the words “which shall not be less than one crore rupees”, the words “which shall not be less than three lakh rupees” shall be substituted.
- Substitution of Chapter heading. of 5. In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—  
“COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS”.
- Amendment of section 3. of 6. In section 3 of the principal Act,—  
(a) in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—  
“Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:  
Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

“(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.”;

(c) in sub-section(3), —

(i) for the words “State Government shall”, the words “State Government may” shall be substituted;

(ii) for the words “Commercial Court, from amongst the cadre of Higher Judicial Service in the State”, the following words shall be substituted, namely:—

“Commercial Court either at the level of District Judge or a court below the level of a District Judge.”.

7. After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

“3A. Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.”.

Designation of Commercial Appellate Courts.

8. In section 4 of the principal Act, in sub-section (1), for the words “ordinary civil jurisdiction”, the words “ordinary original civil jurisdiction” shall be substituted.

Amendment of section 4.

9. Section 9 of the principal Act shall be omitted.

Omission of section 9.

10. In section 12 of the principal Act, in sub-section (1),—

Amendment of section 12.

(i) in clause (c), after the words “Specified Value;”, the word “and” shall be inserted;

(ii) in clause (d), the word “and”, occurring at the end, shall be omitted;



(iii) clause (e) shall be omitted.

Insertion of new  
Chapter IIIA.

**11.** After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IIIA

PRE-INSTITUTION MEDIATION AND SETTLEMENT

Pre-Institution  
Mediation and  
Settlement.

12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-institution mediation. 39 of 1987.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1): 39 of 1987.

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963. 36 of 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996.”. 26 of 1996.

Amendment of  
section 13.

**12.** In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

“(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge

may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996.”.

5 of 1908.  
26 of 1996.

13. In section 14 of the principal Act, for the words “Commercial Appellate Division”, the words “Commercial Appellate Court and the Commercial Appellate Division” shall be substituted. Amendment of section 14.

14. In section 15 of the principal Act, in sub-section (4), for the words, figures and letter “with Order XIV-A”, the words, figures and letters “with Order XV-A” shall be substituted. Amendment of section 15.

15. In section 17 of the principal Act, for the words “Commercial Courts” and “Commercial Court”, wherever they occur, the words “Commercial Courts, Commercial Appellate Courts” shall be substituted. Amendment of section 17.

16. In section 20 of the principal Act, for the words “Commercial Court”, the words “Commercial Courts, Commercial Appellate Courts” shall be substituted. Amendment of section 20.

17. After section 21 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 21A.

“21A. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A;

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Amendment of  
Schedule.

18. In the Schedule to the principal Act,—

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),—

(a) in the opening portion, the words “after the first proviso,” shall be omitted;

(b) for the words “Provided further that”, the words “Provided that” shall be substituted;

(ii) in paragraph 11, for the words “Commercial Court”, the words “Commercial Court, Commercial Appellate Court” shall be substituted;

(iii) after paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:—

“12. After Appendix H, the following Appendix shall be inserted, namely:—

‘APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and  
Order XI- Rule 3)

I----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.



2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in ----paragraphs are true to my knowledge and statements made in ----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of --pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

#### VERIFICATION

I, ..... do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT".

19. Save as otherwise provided, the provisions of this Ordinance shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Ordinance.

Application of Ordinance to cases filed on or after its commencement.

RAM NATH KOVIND,  
*President.*

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯೂ ೨೪ ಕೇನಿಪ್ರ ೨೦೧೮, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೬-೦೬-೨೦೧೮.

೨೦೧೮ನೇ ಸಾಲಿನ ೦೧-೦೬-೨೦೧೮ ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ- ಸೆಕ್ಷನ್ ೩() ರಲ್ಲಿ ಪ್ರಕಟವಾದ S.O.22236(E) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

## MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION NOTIFICATION

New Delhi, the 1st June, 2018

**S.O. 2236(E).**—Whereas the Central Government, in exercise of the powers conferred by section 4 of the Inter-State River Water Disputes Act, 1956 (33 of 1956) (hereinafter referred to as 'the Act') had constituted the Cauvery Water Disputes Tribunal (hereinafter referred to as 'the Tribunal') vide notification number S.O. 437(E), dated the 2<sup>nd</sup> June, 1990 to adjudicate upon the water dispute regarding the Inter-State river Cauvery and the river valley thereof among the States of Karnataka, Kerala, Tamil Nadu and Union territory of Puducherry;

And whereas the Tribunal investigated the matters referred to it and forwarded to the Central Government a report under sub-section (2) of section 5 of the Act on the 5<sup>th</sup> February, 2007 and the party States filed special leave petitions in the Hon'ble Supreme Court against the said report; And whereas the Hon'ble Supreme Court converted the said special leave petitions into Civil Appeals and on the directions of the Hon'ble Supreme Court, the Government of India notified the said report vide S.O. 404(E), dated the 19<sup>th</sup> February, 2013;

And whereas the Hon'ble Supreme Court pronounced its judgment and final order in Civil Appeals 2453 of 2007, 2454 of 2007 and 2456 of 2007 on the 16<sup>th</sup> February, 2018 and directed the Central Government to frame a scheme under section 6A of the Act to implement the Tribunal Award as modified by the Hon'ble Supreme Court vide Order dated the 16<sup>th</sup> February, 2018:

Now, therefore, in exercise of the powers conferred by section 6A of the said Act, the Central Government hereby frames the scheme, inter alia, constituting the **Cauvery Water Management Authority** (hereinafter referred to as the "Authority") and the Cauvery Water Regulation Committee (hereinafter referred to as 'the Committee') to give effect to the decision of the Cauvery Water Disputes Tribunal as modified by the Hon'ble Supreme Court vide its Order, dated the 16<sup>th</sup> February, 2018, namely:-

**1. Short title and commencement.**—(1) This Scheme may be called the Cauvery Water Management Scheme, 2018.

(2) It shall come into force on the date of its publication in the Official Gazette.



### **I. Establishment of Cauvery Water Management Authority**

**2. Constitution of the Authority.**—There shall be an Authority called as Cauvery Water Management Authority.

**3. (1)** The Authority shall be a body corporate having perpetual succession and a common seal and shall sue and be sued.

**(2)** The Authority shall consist of the following members, namely: -

**(a) Chairman** - To be appointed by the Central Government, who shall have tenure of five years or till sixty-five years of age, whichever is earlier, amongst the serving officers, namely: -

**(i)** who is a senior and eminent engineer with wide experience in water resource management; handling of inter-State water sharing issues; construction, operation and maintenance of irrigation projects; or

**(ii)** an All India Service Officer, in the rank of Secretary or Additional Secretary to the Government of India with experience in water resources and inter-State water sharing issues;

**(b) Two whole-time Members** - To be appointed by the Central Government for a term of three years which may be extendable upto five years, as mentioned below:

**(i)** One Member (Water Resources) – an engineer not below the rank of Chief Engineer from the Central Water Engineering Services (CWES) cadre;

**(ii)** One Member (Agriculture) – not below the rank of a Commissioner from the Ministry of Agriculture and Farmers' Welfare;

**(c) Two Part-Time Members** – Representatives of the Central Government of the rank of Joint Secretary to be nominated by the Ministry of Water Resources, River Development and Ganga Rejuvenation and Ministry of Agriculture and Farmers' Welfare respectively;

**(d) Four Part-Time Members from party States** – Administrative Secretaries in charge of Water Resource Departments of each State Government of Kerala, Karnataka, Tamil Nadu and Union territory of Puducherry who shall be nominated by the State Governments and Union territory administration respectively.

**4. Secretary of the Authority.**—The Authority shall have a Secretary who shall be an engineer to be appointed by the Central Government for a term of three years which may be extendable upto five years and not below the rank of Chief Engineer from the Central Water Engineering Services cadre and he shall not have any voting rights.

**5. Quorum and voting.**—(1) Six Members shall form a quorum and the concurrence of the majority shall be necessary for transaction of the business of the Authority except such business as the Authority may from time to time prescribe as routine. The Members shall have equal powers.

**(2)** The next meeting will be held within three days if the meeting is postponed for want of quorum and for that meeting quorum will not be necessary.

6. **Disposal of Business by the Authority.**—(a) On the following matters, the Authority shall record its decision by a resolution at a meeting in which the Chairman and all the part-time Members from the party States are present:—

- (i) framing of Rules of Business;
  - (ii) delegation of functions to a Member or Secretary or any official of the Authority;
  - (iii) categorizing any part of the business of the Authority as of a formal or routine nature;
  - (iv) any other matter which may be considered necessary by any of the part-time Members from party States that it shall be decided at a meeting of the Authority.
- (b) Chairman of the Authority can invite representatives from Central Water Commission, National Institute of Hydrology, Indian Agricultural Research Institute (IARI) and any other agency including Universities as special invitees to attend the Authority meetings or otherwise, in carrying out the functions specified under this scheme.
- (c) Subject to the foregoing provisions, the Authority shall frame its own rules for the conduct of its business.

7. **Indemnity of Members.**—No Member, officer or employee of the Authority shall be liable for loss, injury or damages resulting from:

- (a) action taken by such Member, officer or employee in good faith and without malice under the apparent authority of the orders, even though such action is later determined to be unauthorised, or
- (b) the negligent or wrongful act or omission of any other person employed by the Authority and serving under such Member, officer or employee unless such Member, officer, or employee failed to exercise due care in the appointment of such other person or the supervision of his work.

8. **Officers and servants of the Authority.**—(1) The Authority may from time to time appoint or employ such and so many officers and employees as it thinks fit and remove or dismiss them, under the rules and regulations applicable to the appointment, removal and dismissal of the Central Government officers and employees. All such officers and employees shall be subject to the sole control of the Authority. The Authority may, with the previous approval of the Central Government, make regulations to regulate conditions of service of all such officers and employees in respect of the residential accommodation, house rent allowance, travelling allowance, daily allowance, conveyance allowance and medical reimbursement. The scales of pay and the other service conditions shall be as applicable to the Central Government employees.

(2) The persons who are employed in the services of the said States and the Union territory of Puducherry may be appointed or employed by the Authority in such proportions as the Authority may deem fit. The Authority shall make arrangement with the State Government or the Union territory, as the case may be, to spare the services of the persons employed in the State Government or the Union territory for whole-time employment with the Authority, or for the performance of any work or services for the Authority. The Authority may also appoint any personnel by direct recruitment or obtain the same from the Centre or other sources, as considered necessary.

9. **Administrative and field organisation costs.**—(1) All expenses of the Authority (including salary and other expenses of the Chairman, whole-time Members and Secretary) shall be borne by the concerned State Governments and the Union territory of Puducherry in the ratio of Kerala-15%; Karnataka-40%, Tamil Nadu-40%; and Union territory of Puducherry-5%. The expenses pertaining to Member representing a State or Union territory shall be borne by the State or Union territory concerned.

(2) The cost of maintaining, operation and controlling of gauging and other hydrological systems for communicating data shall be borne by the State or Union territory concerned.

(3) The cost of construction and maintenance of the storages, power installations, diversion works, head-works and canal networks shall be borne wholly by the State Government or Union territory in whose territory the works are located.

**10. Powers, functions and duties of the Authority.**—(1) The Authority shall exercise such power and shall discharge such duty to do any or all things necessary, sufficient and expedient for securing compliance and implementation of the Award of the Tribunal as modified by the Hon'ble Supreme Court vide Order dated the 16<sup>th</sup> February, 2018 including:

- (i) storage, apportionment, regulation and control of Cauvery waters;
  - (ii) supervision of operation of reservoirs and with regulation of water releases therefrom with the assistance of Regulation Committee;
  - (iii) regulated release by Karnataka, at the inter-State contact point presently identified as Billigundulu gauge and discharge station, located on the common border of Karnataka and Tamil Nadu.
- (2) The Authority may constitute one or more sub-committees and assign to them such of its functions and delegate such of its powers as it thinks fit.
- (3) In particular and without prejudice to the generality of the foregoing functions, the Authority shall perform inter alia, the following functions, namely: -
- (i) The Authority at the beginning of the water year, i.e. first June each year would determine the total residual storage in the specified reservoirs. As, it is not possible to know the amount of season-wise river flows which will be available during a season, it will be assumed that the inflows will be according to 50% dependable year (yield 740 TMC). The share of each State will be determined on the basis of the flows so assumed together with the available carry-over storage in the reservoirs. The withdrawals will be allowed during the first time interval of ten days of the season on the basis of the share worked out for each party State, limited to the water requirements during the same period indicated by each party State by placing an indent of water demand with Cauvery Water Regulation Committee.
  - (ii) The Authority will take stock of the actual yield in the basin at the end of the previous time interval as well as the utilization or releases and storage built up during the interval and assess the trend of inflows and authorize withdrawals to the States for the subsequent time interval accordingly. For giving effect to the aforesaid provision, the Authority may have to repeat this exercise for two or more time intervals.
  - (iii) The Authority shall ensure the implementation of the Award of the Tribunal as modified by the Hon'ble Supreme Court vide Order dated 16<sup>th</sup> February, 2018 including the carry-over storage during good year and the water releases for environmental purposes. The Authority, through the Regulation Committee and with the help of Central Water Commission, and other Central or State organizations as necessary will identify situations of distress in the river basin. Distress caused by diminution of water flows during the period will be shared by the party States after the distress conditions and their extent is determined by the Authority, keeping in view water shares allotted to parties.
  - (iv) The following important reservoirs in the river basin, namely, Banasurasagar in Kerala; Hemavathy, Harangi, Kabini and Krishnarajasagara in Karnataka; and Lower Bhavani, Amaravathy and Mettur in Tamil Nadu shall be operated in an integrated manner by the concerned State under the overall guidance of the Authority for each ten days period throughout the year to meet the seasonal water requirements of the party States for irrigation, hydro-power generation, domestic and industrial uses, etc. The remaining quantities of the surplus water shall be conserved as far as possible and spillage of water shall be reduced to the minimum.
  - (v) The Authority shall maintain an account of cropping pattern, area cropped and area irrigated for each party State. The Authority shall also maintain an account of domestic and industrial water usage by each party State.
  - (vi) The Authority shall set up a well-designed communication network in the Cauvery basin for transmission of data and a computer based control room for data processing to determine the hydrological conditions including distress, if any. For this purpose, it may utilize the latest

technology. For operational purposes, this work may be entrusted by the Authority to Central Water Commission or any other Central or State Government organization.

- (vii) On the beginning of irrigation season which is 1st June of every year, all the party States through their representatives in the Authority shall submit an indent for the supplies required by them at each reservoir site (capacity 3 TMC and above) for the month of June broken in ten daily intervals. The Authority will examine reasonableness of the indents keeping in view the cropping pattern and extent of area to be irrigated and order releases keeping in view the overall ceiling prescribed by the Tribunal and modified by the Hon'ble Supreme Court vide Order dated 16<sup>th</sup> February, 2018 for the month after determining the available carry-over storage and taking into consideration the likely inflows during the month. The Regulation Committee shall release water on ten daily bases as ordered by the Authority.
- (viii) In case of deficiency in the water availability during any month as reported by the Regulation Committee, the Authority will consider reduction in the indent of the parties in proportion to the quantities allocated to each State by the Tribunal as modified by the Hon'ble Supreme Court vide Order dated 16<sup>th</sup> February, 2018 for the designated crops.
- (ix) The Regulation Committee shall keep a watch on the actual performance of the monsoon during each ten daily interval and report position to the Authority indicating therein the extent of variation from the normal. The Authority on receipt of such information will consider any change in the release ordered by them earlier. Similar exercise will continue as the monsoon progresses during the succeeding months till the end of the water year which is 31<sup>st</sup> May of every year.
- (x) The Authority shall ensure that the respective State Governments should construct proper hydraulic structures at all important anicut sites in the river basin with a provision of appropriate regulation mechanism. Besides, regular monitoring of the withdrawals at such diversion structures on the part of the State would be necessary.
- (xi) The Authority may direct party States to furnish data in respect of carry-over storage in reservoirs, including inflows and outflows, rainfall data, the area irrigated and water utilized.
- (xii) The Authority shall arrange collection of data for important rain gauge stations maintained by Indian Metrological Department or Central Water Commission or States in the Cauvery basin, as also inflow data measured at important nodal points on the Cauvery river system through the Cauvery Regulation Committee which will suitably compile the rainfall data for different monsoon seasons along with the inflows measured at different sites.
- (xiii) The Authority or any Member or any representative thereof shall have power to enter upon any land or property upon which any hydraulic structure or any work of gauging or measuring device has been or is being constructed, operated or maintained by any agency in the Cauvery basin.
- (xiv) The Authority shall have power to hold and dispose of property, enter into contracts, sue and be sued and do all such acts as may be necessary for the proper exercise and discharge of its jurisdiction, powers and functions.
- (xv) The Authority may construct or make direction to construct additional gauging stations to the States concerned with the assistance of Central Government and Central Water Commission for implementing the decision of the Tribunal.
- (xvi) If the Authority finds that any Government of the party States, namely Tamil Nadu, Kerala, Karnataka and Union territory of Puducherry do not co-operate in implementing the decision or direction of the Tribunal, it can seek the help of the Central Government for implementation of the Award of the Tribunal as modified by the Hon'ble Supreme Court vide Order of 16<sup>th</sup> February, 2018.
- (xvii) If any delay or shortfall is caused in release of water on account of default of any party State, the Authority shall take appropriate action to make good the deficiency by subsequently deducting indented releases of that party State.



- (xviii) The Authority shall advise the party States to take suitable measures to improve water use efficiency, by way of promoting micro-irrigation (drip and sprinkler), change in cropping pattern, improved agronomic practices, system deficiency correction, command area development, etc.
- (xix) The Authority shall advise the party States to adopt efficient technologies for water conservation and preservation.
- (xx) The Authority shall comply with the directions of the Central Government issued from time to time with respect to composition, establishment and administration of the Authority.
- (xxi) The Authority may delegate such of its power, as it thinks fit, to Cauvery Water Regulation Committee.

**11. Annual Report of the Authority.**—The Authority shall prepare and transmit to each of the four party States as early as possible but not later than 30<sup>th</sup> September of each year, an Annual Report covering the activities of the Authority for the preceding year. The Authority shall make available to each party State on its request any information within its possession any time and always provide access to its records to the party States and their authorized representatives.

**12. Records of the Authority and their location.**—(1) The Authority shall keep a record of its meetings and proceedings, maintain regular accounts, and have a suitable office where documents, records, accounts and gauging data shall be kept open for inspection by the Central Government and Government of each of the party States and Union territory or their representatives at such time and under such regulations as the Authority may determine.

(2) The Head Quarters of the Authority shall be at New Delhi.

**13. Contracts and agreements.**—The Authority shall enter into such contracts and agreements as may be necessary and essential for the full and proper performance of the functions and duties conferred or imposed on it.

**14. Financial provision.**—(i) The Central Government shall initially contribute a sum of two crore rupees for the functioning of the Authority.

(ii) All the capital and revenue expenditure required to be incurred by the Authority shall be borne by the State Governments of Kerala, Karnataka, Tamil Nadu and Union territory of Puducherry in the ratio of 15:40:40:5 respectively.

(iii) On the constitution of the Authority, the State Governments of Kerala, Karnataka, Tamil Nadu and Union territory of Puducherry shall contribute two crore rupees in the ratio indicated in (ii) above towards the fund of the Authority in the first instance, and later on make advance payments on a quarterly basis as demanded by the Authority keeping in view the annual budget of the Authority.

(iv) The Authority shall maintain detailed and accurate accounts of all receipts and disbursements and shall after the closing of each financial year, prepare an annual Statement of Accounts and send copies thereof to the Accountant General and concerned basin States.

(v) The accounts maintained by the Authority shall be audited by the Comptroller and Auditor General of India or his nominee, who shall certify, subject to such observation as he may wish to make on the annual accounts of the Authority. The Authority shall forward the copies of the Report of the Comptroller and Auditor General of India to the Accountant General, the Central Government and the concerned basin States and shall include the same in its annual report.

(vi) To perform any other function which is supplemental, incidental or consequential to all or any of the functions specified in sub-paragraphs (i) to (v) above.

**15. Decisions of the Authority.**—The decisions of the Authority on all matters for the purposes of implementing the Award of the Tribunal as modified by the Hon'ble Supreme Court vide Order dated the 16<sup>th</sup> February, 2018 including but not limited to the matters covered under paragraph 10, shall be final and binding on all the party States.

**16. Constructions outside jurisdiction of the Authority.**—Save and except to the extent otherwise provided in the Award of the Tribunal as modified by the Order of the Hon'ble Supreme Court, the planning,



construction and maintenance of the projects will be carried out by each State or Union territory administration through its own agencies.

### **II. Cauvery Water Regulation Committee**

**17. Composition of the Cauvery Water Regulation Committee.**—(1) There shall be a Cauvery Water Regulation Committee consisting of the following members, namely:—

- |   |   |                   |
|---|---|-------------------|
| 1) Whole-Time Member (Water Resources) of the Authority   | - | Chairman;         |
| 2) One representative each of the States of Kerala, Karnataka, Tamil Nadu and Union territory of Puducherry not below the rank of Chief Engineer. | - | Member;           |
| 3) One representative of India Meteorological Department, of the rank of Joint Secretary  | - | Member;           |
| 4) One representative of Central Water Commission dealing with river gauging not below the rank of Chief Engineer                                 | - | Member;           |
| 5) One representative of the Ministry of Agriculture & Farmers' Welfare, Government of India not below the rank of Commissioner                   | - | Member;           |
| 6) Secretary to the Authority   | - | Member Secretary. |

(2) The Head Quarters of the Cauvery Water Regulation Committee shall be at Bengaluru.

**18. Functions of the Cauvery Water Regulation Committee.**—The Committee shall ensure the implementation of the provisions contained in the final Award of the Tribunal as modified by the Hon'ble Supreme Court vide Order dated the 16<sup>th</sup> February, 2018 with the directions to the Authority, namely:—

- (a) to collect daily water levels, inflows and storage position at each of the following reservoirs – Hemavathy, Harangi, Krishnarajasagara, Kabini, Mettur, Bhavanisagar, Amaravathy and Banasuragar;
- (b) to ensure ten daily releases of water on monthly basis from the reservoirs as directed by the Authority;
- (c) to collect data of water released from the aforesaid reservoirs on twelve hourly basis;
- (d) the Authority's representatives at each of the reservoirs shall monitor proper implementation of the regulation instruction issued by the Committee and in the event of any variation, the representative shall immediately inform the Member Secretary of the Committee for appropriate action;
- (e) to collect daily water flows passing through presently identified inter- State contact point Billigundulu gauge and discharge site and keep the Authority suitably informed;
- (f) to compile and reconcile monthly water account for each reservoir;
- (g) to collect and compile weekly information about important rain gauge stations of the India Meteorological Department in order to be able to broadly assess the position of monsoon and keep the Authority informed about the status of the monsoon;
- (h) the State representative, in-charge of the major projects will keep the Committee regularly informed about the occurrence of the rainfall in the commands and whether any change in the releases is required;

(i) to prepare seasonal and annual report of the water account and submit the same to the Authority as indicated below:—

- |     |  |   |   |
|-----|--|---|---|
| (a) | South-West monsoon season<br>(inclusive of fortnight of October) | — | 1 <sup>st</sup> June to 15 <sup>th</sup> October;     |
| (b) | North-East monsoon season  | — | 16 <sup>th</sup> October to 31 <sup>st</sup> January; |
| (c) | Hot weather season   | — | 1 <sup>st</sup> February to 31 <sup>st</sup> May.     |

**19. Meetings of the Committee.**—(1) The Committee shall meet once in ten days during the months of June and October when the south-west and north-east monsoon set in and after the monsoon has set in, the meeting will be held at least once a fortnight but the Committee shall have the powers to convene meetings as often as necessary. In case of any exigency, a minimum of forty-eight hours notice shall be given for holding a meeting.

(2) In case, the State which is likely to be affected is not represented in the meeting, then the possibility of calling another meeting will be considered by the Committee:

Provided that if the situation is such that it warrants to take immediate decision, then the Committee may decide the issue by majority vote even in the absence of representative from the affected State.

(3) The quorum for meeting of the Committee shall be at least six.

(4) All the Members including the Chairman and Member Secretary of the Committee shall have voting right and the Chairman shall also have a casting vote.

[F. No. R-19014/01/2018/Pen. River]

SANJAY KUNDU, Jt. Secy. (RD&PP)

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ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಶ್ರೀನಿವಾಸ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ  
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಘ ೦೮ ಕೇಶಾಪ್ರ ೨೦೧೮, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೬-೦೬-೨೦೧೮.

ದಿನಾಂಕ: ೧೮-೦೫-೨೦೧೭ ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (೧) ರಲ್ಲಿ ಪ್ರಕಟವಾದ  
The Homoeopathy Central Council (Amendment) Ordinance, 2018 (No. 4 of 2018) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ  
ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

*New Delhi, the 18th May, 2018/Vaisakha 28, 1940 (Saka)*

**THE HOMOEOPATHY CENTRAL COUNCIL**  
(AMENDMENT) ORDINANCE, 2018

No. 4 OF 2018

Promulgated by the President in the Sixty-ninth Year of the  
Republic of India.

An Ordinance further to amend the Homoeopathy Central  
Council Act, 1973.

WHEREAS Parliament is not in session and the President is  
satisfied that circumstances exist which render it necessary for  
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by  
clause (1) of article 123 of the Constitution, the President is  
pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Homoeopathy  
Central Council (Amendment) Ordinance, 2018.

Short title and  
commencement.

(2) It shall come into force at once.

Insertion of  
new sections  
3A, 3B and  
3C.

2. In the Homoeopathy Central Council Act, 1973, (herein after referred to as the principal Act), after section 3, the following sections shall be inserted, namely:—

Power of  
Central  
Government to  
supersede the  
Central  
Council and to  
constitute a  
Board of  
Governors.

“3A. (1) On and from the date of commencement of the Homoeopathy Central Council (Amendment) Ordinance, 2018, the Central Council shall stand superseded and the President, Vice-President and other members of the Central Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Central Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Central Council under sub-section (1).

(3) Upon the supersession of the Central Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Central Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of Homoeopathy and Homoeopathy education, and eminent administrators, and who may be either nominated members or members, *ex officio* to be appointed by the Central Government, one of whom shall be selected by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and such places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Central Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum of its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors'; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision, shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Central Council stands superseded, —

Certain modifications of the Act.

(a) the provisions of the Act shall be construed as if for the words "Central Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall exercise the powers and discharge the functions of the Central Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Central Council shall be construed as references to the Board of Governors.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Central Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on question of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Power of Central Government to give directions.

Provided that the Board of Governors or the Central Council, after its reconstitution shall, as far as practicable, be given an opportunity to express its view before any direction is given under this sub-section.



(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.”.

Insertion of  
new section  
12C.

3. After section 12B of the principal Act, the following section shall be inserted, namely:—

Time for  
seeking  
permission for  
certain existing  
medical  
colleges.

“12C. (1) If any person has established a Homoeopathy Medical College or any Homoeopathy Medical College has opened a new or higher course of study or training or increased the admission capacity on or before the date of commencement of the Homoeopathy Central Council (Amendment) Ordinance, 2018, such person or Homoeopathy Medical College, as the case may be, shall seek, within a period of one year from the said commencement, permission of the Central Government, in accordance with the provisions specified in the regulations made by the Central Council.

(2) If any person or Homoeopathy Medical College, as the case may be, fails to seek permission under sub-section (1), the provisions of section 12B shall apply, as far as may be, as if the Central Government has been refused.”.

RAM NATH KOVIND,  
*President.*

DR. REETA VASISHTA,  
*Additional Secretary to the Govt. of India.*

P.R. 28  
SC - 20

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

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